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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,329	03/01/2004	Raj Bridgelall	022.0047 (1726)	1836

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EXAMINER

LOBO, IAN J

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/791,329	Applicant(s) BRIDGELALL ET AL.	
	Examiner Ian J. Lobo	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-17, 20-23, 26-33, 36-47, 50 and 51 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 18, 19, 24, 25, 34, 35, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/2004, 6/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-51 are pending in the instant application. Upon further review by the examiner, the prior restriction requirement is retracted.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

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be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2, 3, 5, 6, 10, 11, 13, 14, 15, 16, 31, 32, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, and 50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, 19, 20, 21, 22, 23, 33, 34, 40, 41, 42, 43, 45, 46, 48, 49, and 50 of copending Application No. 10/803,186. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant claims is clearly encompassed by subject matter set forth in the respective claims of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 7, 17, 20-22 and 26-30, 47 and 51 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 23, 37, 40, 41, 45, 46 and 47 of copending Application No. 10/803,186 in view of Gilfix et al ('318). Independent instant claim 20 further limits the invention by further claiming the step of "addressing the RFID tag using an RDIF reader, the addressing of the RFID tag putting the RFID tag into a responsive state". Gilfix et al is exemplary of RFID tags

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and RFID reader systems where the reader activates a specific RFID tag (puts it into a responsive state). It would be obvious to one of ordinary skill in the art that the method claimed in the '186 application would include a step of addressing the RFID tag and putting it into a responsive state since, as taught by Gilfix, most RFID tags are in an unresponsive state until addressed by an RFID reader. Per claims 7, 17 and 51 Gilfix et al further disclose an RFID reader with a ranging unit.

This is a provisional obviousness-type double patenting rejection.

5. Claim 47 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 48 of copending Application No. 10/803,186 in view of Lee ('656). Lee teaches the structure of an RFID reader includes a transceiver, switch and antenna. It is obvious to one of ordinary skill in this art that the claimed RFID reader of claim 48 of the '186 application would include such structure.

This is a provisional obviousness-type double patenting rejection.

6. Claims 4, 12, 23, 33 and 44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 19, 20, 23, 41 and 48 of copending Application No. 10/803,186 in view of Gorinevsky ('832). Gorinevsky discloses and teaches that least squares analysis is a form of linear trend fit fitting such that it would have been obvious to one of ordinary skill in the art to have utilized least squares analysis to determine the phase of the backscattered modulated signals.

This is a provisional obviousness-type double patenting rejection.

Allowable Subject Matter

7. Claims 8, 9, 18, 19, 24, 25, 34, 35, 48 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (571) 272-6974. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ian J. Lobo
Primary Examiner
Art Unit 3662

ijl